



## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1278]

### Certain Radio Frequency Transmission Devices and Components Thereof;

### Notice of Commission Decision to Review in Part and, on Review, to Affirm a Final Initial Determination Finding No Violation of Section 337; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination (“FID”) of the presiding Chief Administrative Law Judge (“Chief ALJ”) finding no violation of section 337 of the Tariff Act of 1930 (“section 337”), as amended, in this investigation. On review, the Commission affirms with modification the FID’s finding of no violation of section 337. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On September 2, 2021, the Commission instituted this investigation under section 337 based on a complaint filed by Zebra Technologies Corporation of Lincolnshire, Illinois (“Complainant”). *See* 86 FR 49344-45 (Sept. 2, 2021). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation

of certain radio frequency transmission devices and components thereof by reason of infringement of claims 1, 3-8, 10, 11, and 13-16 of U.S. Patent No. 6,895,219 (“the ’219 patent”) and claims 17-19 of U.S. Patent No. 7,683,788 (“the ’788 patent”) (collectively, the “Asserted Patents”). *See id.* The notice of investigation names OnAsset Intelligence, Inc. of Irving, Texas (“Respondent”) as the respondent in the investigation. *See id.* The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On May 31, 2022, the Commission partially terminated the investigation as to claims 7, 8, and 16 of the ’219 patent based on the withdrawal of the allegations in the complaint as to those claims. *See* Order No. 20 (May 2, 2022), *unreviewed by* Comm’n Notice (May 31, 2022).

On September 16, 2022, the Chief ALJ issued the FID finding no violation of section 337. Specifically, the FID finds that Complainant failed to establish infringement of the Asserted Patents by the Respondent. The FID also finds that claims 17 and 18 (but not claim 19) of the ’788 patent are invalid as anticipated by U.S. Patent No. 7,193,504 (“Carrender I”) (RX-132). The FID further finds that the domestic industry requirement is satisfied with respect to the ’788 patent. The FID does not reach invalidity and the domestic industry requirement as to the ’219 patent.

The FID also includes a Recommended Determination (“RD”) recommending, should the Commission find a violation of section 337, that the Commission issue: (1) a limited exclusion order against radio frequency transmission devices and components thereof that are imported into the United States, sold for importation, or sold within the United States after importation by or on behalf of the Respondent; and (2) a cease and desist order against the Respondent. The RD further recommends that the Commission set no bond during the period of Presidential review.

On September 30, 2022, Complainant filed a petition for Commission review of the FID. As to the ’788 patent, Complainant requests Commission review with respect to the FID’s findings concerning: (1) claim construction; (2) non-infringement; (3) invalidity of claims 17 and 18; and (4) contingently, the domestic industry findings as to one of Complainant’s domestic

industry products. As to the '219 patent, Complainant does not challenge the FID's findings but requests vacatur of such findings in view of the impending expiration of that patent on January 27, 2023.

On October 11, 2022, Respondent filed a response to Complainant's petition. The parties did not file a statement on the public interest pursuant to Commission Rule 210.50 (19 CFR 210.50). Nor has the Commission received any submission in response to its post-RD *Federal Register* notice. See 87 FR 65249-50 (Oct. 28, 2022).

Having examined the record of this investigation, including the FID and the parties' submissions, the Commission has determined to review the FID in part, and upon review, to affirm the FID's determination of no violation of section 337. Specifically, as explained in the Commission Opinion issued concurrently herewith, the Commission has determined to review and, on review, to vacate the FID's findings as to the '219 patent in view of the expiration of that patent during the pendency of the investigation. As to the '788 patent, the Commission has determined to review and, on review, to: (1) modify and supplement the FID's claim construction findings with respect to the term "common reference frequency"; (2) affirm with modification the FID's non-infringement findings; (3) affirm with modification the FID's findings on the technical prong of the domestic industry requirement; (4) take no position as to the economic prong of the domestic industry requirement; and (5) reverse the FID's invalidity findings over Carrender I. The Commission adopts all findings in the FID that are not inconsistent with the Commission's determination.

The investigation is terminated.

The Commission's vote for this determination took place on February 13, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 13, 2023.

**Lisa Barton,**  
*Secretary to the Commission.*

[FR Doc. 2023-03349 Filed: 2/16/2023 8:45 am; Publication Date: 2/17/2023]